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MISSOULA, MT

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BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

EMERGIS TECHNOLOGIES, INC., f/k/a
BCE EMERGIS TECHNOLOGIES, INC.,

Plaintiff,

v.

FLATHEAD ELECTRIC
COOPERATIVE, INC

Defendant.

Cause No. 06-06-007-m-DWM

COMPLAINT AND JURY DEMAND

Plaintiff Emergis Technologies, Inc., f/k/a BCE Emergis Technologies, Inc., by
and through its undersigned attorneys, for its Complaint against Defendant Flathead
Electric Cooperative, Inc., states and alleges as follows:

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Summons Issued 1-17-06
Receipt No # 44065 \$250-

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NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

PARTIES

2. Plaintiff Emergis Technologies, Inc. f/k/a BCE Emergis Technologies, Inc. (“Emergis”) is incorporated under the laws of the State of Delaware and has its principal place of business at 1600 International Drive, Suite 200, McLean, Virginia 22102.

3. On information and belief, Defendant Flathead Electric Cooperative, Inc. is organized under the laws of Montana as a cooperative and has its principal place of business in Kalispell, Montana.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of Emergis’ Complaint pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant Flathead Electric Cooperative, Inc., because, among other things, on information and belief, Flathead Electric Cooperative, Inc., has physically conducted and continues to physically conduct business throughout the State of Montana, and is amenable to service of process in Montana pursuant to Montana Rules of Civil Procedure 4. Defendant maintains its principal place of business and headquarters in the State of Montana.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

BACKGROUND

7. Emergis is a leading North American eBusiness company that supplies technology solutions and services to the transaction-intensive financial services market in North America and Canadian health care and government sectors. Emergis' technology solutions allow the automation of transactions between partners, suppliers and clients, enabling them to interact and transact electronically more efficiently, faster, in a secure environment.

8. Emergis' expertise and core competencies lie in inter-company transactions processing principally in the health and finance segments, and more specifically in the areas of: (a) online processing, adjudication and payment of prescription drug, dental and other health care services claims; (b) enablement of electronic payments; and (c) paperless loan document processing. Emergis' customers include leading Canadian health insurers, U.S. banks, the top six Canadian banks and a number of North America's largest enterprises.

9. On March 28, 2000, United States Patent No. 6,044,362 ("the '362 patent"), entitled "Electronic Invoicing and Payment System," and naming as its sole inventor R. Alan Neely, was duly and legally issued by the United States Patent and Trademark Office.

10. Emergis owns by assignment the entire right, title, and interest in the '362 patent such that it may enforce that patent. A copy of Emergis' '362 patent is attached hereto as Exhibit A.

1 11. The '362 patent broadly claims systems for automated electronic billing and
2 payment, incorporating a wide variety of user interface facilities and mechanisms by
3 which invoices may be presented and payment instructions may be initiated.

4 12. On information and belief, Defendant Flathead Electric Cooperative, Inc., serves
5 more than 44,500 electricity customers in Montana. In support of this business, Flathead
6 Electric Cooperative, Inc., employs an electronic invoicing, payment, and presentment
7 ("EIPP") facility to its customers via its Internet website. Customers may access this
8 EIPP facility remotely using a personal computer to view invoices and initiate payment
9 transactions to Flathead Electric Cooperative, Inc.

10 13. Flathead Electric Cooperative, Inc., has had actual notice of the existence of the
11 '362 patent.

12 **COUNT I**
13 **FLATHEAD ELECTRIC COOPERATIVE, INC.'S**
14 **INFRINGEMENT OF THE '362 PATENT**

15 14. Emergis repeats and realleges the allegations of paragraphs 1 through 16 as though
16 fully set forth herein.

17 15. Flathead Electric Cooperative, Inc. has been and is directly infringing, actively
18 inducing others to infringe, and/or contributing to the infringement of the '362 patent by
19 making, using, importing into the United States, offering for sale, selling, and/or
20 otherwise distributing electronic invoicing and payment technology in violation of 35
21 U.S.C. § 271.

22 16. Flathead Electric Cooperative, Inc.'s infringement has injured or will injure
Emergis and Emergis is entitled to recover damages adequate to compensate it for

1 Flathead Electric Cooperative, Inc.'s infringement, which in no event can be less than a
2 reasonable royalty.

3 17. Flathead Electric Cooperative, Inc.'s infringement has been deliberate, willful,
4 intentional, and with full knowledge of the existence of the '362 patent.

5 18. Flathead Electric Cooperative, Inc., has caused and will cause Emergis substantial
6 damage and irreparable injury by its infringement of the '362 patent, and Emergis will
7 continue to suffer damage and irreparable injury unless and until Flathead Electric
8 Cooperative, Inc. is enjoined by this Court from continuing its infringement.

9 19. Emergis is entitled to injunctive and compensatory relief, including attorneys' fees
10 and costs, as well as enhanced damages pursuant to 35 U.S.C. §§ 271, 281, and 283-85.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff Emergis respectfully requests that this Court enter
13 Judgment in favor of Emergis and against Flathead Electric Cooperative, Inc., and grant
14 to Emergis the following relief:

15 A. Enter judgment that Flathead Electric Cooperative, Inc., has infringed and is
16 infringing the '362 patent;

17 B. Enter judgment that the aforementioned infringement by Defendant Flathead
18 Electric Cooperative, Inc., has been and is willful;

19 C. Enter orders preliminarily and permanently enjoining Flathead Electric
20 Cooperative, Inc., and its respective officers, agents, employees, and all others in active
21 concert or participation with Flathead Electric Cooperative, Inc., or any of them from
22 further infringing, whether directly or indirectly, the '362 patent;

1 D. Award Emergis its damages in an amount sufficient to compensate Emergis for
2 Defendants' infringement of the '362 patent, together with pre-judgment and post-
3 judgment interest and costs, pursuant to 35 U.S.C. § 284, in an amount to be determined
4 at trial;

5 E. Award enhanced damages to Emergis in an amount not less than three times the
6 amount of compensatory damages awarded by this Court for Defendants' willful
7 infringement of the '362 patent, pursuant to 35 U.S.C. § 284;

8 F. Declare this case to be "exceptional" under 35 U.S.C. § 285, and award Emergis
9 its attorneys' fees, expenses, and costs incurred in this action; and

10 G. Award Emergis such other relief as this Court deems just and proper.

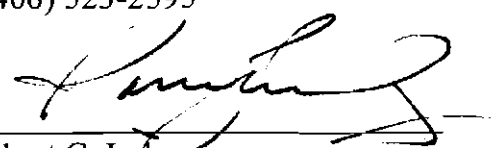
11 **JURY DEMAND**

12 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Emergis
13 respectfully requests a trial by jury of all issues for which a trial by jury is available under
14 applicable law.

15 DATED this 20th day of January, 2006.

16 Attorneys for Plaintiff:

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